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BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
OF THE STATE OF CALIFORNIA

In the Matter of:)	ESCROW LICENSE NO. 963-2532
)	
THE COMMISSIONER OF BUSINESS)	
OVERSIGHT,)	ACCUSATION TO REVOKE ESCROW
)	AGENT'S LICENSE PURSUANT TO
Complainant,)	FINANCIAL CODE SECTION 17608
v.)	
)	
EQUINE ESCROW, INC.,)	
)	
Respondent.)	
)	
)	

The Complainant, the Commissioner of Business Oversight (Commissioner), alleges and charges Respondent Equine Escrow, Inc. (Equine Escrow) as follows:

I.

INTRODUCTION

1. The Commissioner seeks to revoke the escrow agent's license issued to Equine Escrow based upon violations of the California Escrow Law (Fin. Code, § 17000 et seq.) (Escrow Law), including failure to file annual audit reports and submit books and records for inspection by the

Commissioner, as set forth more fully below.

II.

FACTUAL BACKGROUND

2. Equine Escrow is an escrow agent licensed by the Commissioner under the Escrow Law since March 17, 2009, with its place of business located at 524-B Hartz Avenue, Danville, California 94526.

3. Richard D. Carvin, Jr. is the President of Equine Escrow.

4. On February 27, 2017, Equine Escrow applied to the Commissioner to surrender its escrow agent's license. Equine Escrow asserted that it could not locate the original license, and it was not included in the surrender package.

5. The Commissioner sent a letter explaining the surrender process to Equine Escrow on March 14, 2017. This letter explained the surrender process, including the requirement of a closing audit submitted by a Certified Public Accountant (CPA). A follow-up letter was sent on June 8, 2017, which was returned as "Unclaimed Unable to Forward."

III.

VIOLATIONS OF THE ESCROW LAW

A. Failure to File December 31, 2016 Audit Report

6. Under section 17406 of the Escrow Law, all licensees are required to file an annual audit report containing audited financial statements ("audit report") within 105 days after the close of the licensee's fiscal year. Equine Escrow's fiscal year-end is December 31. Therefore, Equine Escrow was required to file its audit report for the fiscal year ended December 31, 2016, on or before April 17, 2017.

7. Additionally, Financial Code section 17600 requires that a surrendering escrow agent submit a closing audit within 105 days of the submission of the escrow agent's license. A certified letter that explained the surrender process was sent to Equine Escrow on March 14, 2017. A follow-up letter was sent on June 8, 2017, but that letter was returned as "Unclaimed Unable to Forward."

8. Equine Escrow has yet to file its 2016 audit report as required under Financial Code sections 17406 and 17600.

B. Failure to File Annual Escrow Liability Report

9. Financial Code section 17348 requires that each licensed escrow agent must file an Annual Escrow Liability Report by February 15 of each year.

10. Equine Escrow failed to submit its Annual Escrow Liability Reports for the past two years.

11. Equine Escrow's Annual Escrow Liability Report for 2016 was due to the Commissioner by February 15, 2017. The Commissioner issued a 10-day demand letter to Equine Escrow on or about February 22, 2017, but no response was received.

12. Similarly, Equine Escrow has yet to file by February 15, 2018 its Annual Escrow Liability Report for 2017, as required under section 17348.

C. Failure to Maintain Adequate Bond

13. Financial Code section 17348 requires a licensed escrow agent to maintain a bond in an amount to be determined by the Commissioner.

14. Equine Escrow's surety bond in the amount of \$25,000 (bond no. 41134639) was cancelled by Platte River Insurance Company on May 9, 2017. There is no record that this bond was ever reinstated.

15. Thus, Equine Escrow has failed to maintain a bond as required by the Commissioner, in violation of Financial Code section 17348.

IV.

ESCROW LAW

16. Financial Code section 17600, subdivision (b), provides in pertinent part:

A licensee that ceases to engage in the business regulated by this division and desires to no longer be licensed shall notify the commissioner in writing and, at that time, tender the license and all other indicia of licensure to the commissioner. Within 105 days of the written notice to the commissioner, the licensee shall submit to the commissioner, at its own expense, a closing audit report as of the date the license is tendered to the commissioner for surrender, or for another period as the commissioner may specify, to be performed by an independent certified public accountant. The closing audit shall include, but not be limited to, information required by the

commissioner, a bank reconciliation of the trust account, and a verified statement from a certified public accountant confirming lawful disbursement of funds. A license is not surrendered until the commissioner has reviewed and accepted the closing audit report, a determination has been made by the commissioner that acceptance of the surrender is in the public interest, and tender of the license is accepted in writing by the commissioner.

17. Financial Code section 17404 provides:

Every person subject to this division shall keep and use in its business, books, accounts, and records which will properly enable the commissioner to determine whether the escrow functions performed by such person comply with the provisions of this division and with all rules made by the commissioner under this division.

18. Financial Code section 17348, subdivision (a), provides in pertinent part:

At the time of filing an application for an escrow agent's license, the applicant shall deposit with the commissioner a bond satisfactory to the commissioner in the amount of at least twenty-five thousand dollars (\$25,000). Thereafter, a licensee shall maintain a bond satisfactory to the commissioner in the amount of: (1) twenty-five thousand dollars (\$25,000) if 150 percent of the previous year's average annual trust fund obligations, as calculated under Section 17348, equals two hundred fifty thousand dollars (\$250,000) or less; (2) thirty-five thousand dollars (\$35,000) if 150 percent of the previous year's average annual trust fund obligations, as calculated under Section 17348, equals at least two hundred fifty thousand one dollars (\$250,001) but not more than five hundred thousand dollars (\$500,000); or (3) fifty thousand dollars (\$50,000) if 150 percent of the previous year's average annual trust fund obligations, as calculated under Section 17348, equals five hundred thousand one dollars (\$500,001) or more. The bond shall run to the state for the use of the state and for any person who has cause against the obligor of the bond under the provision of this division. A deposit given instead of the bond required by this section shall not be deemed an asset of the applicant or licensee for the purpose of complying with Section 17210. An applicant or licensee may obtain an irrevocable letter of credit approved by the commissioner in lieu of the bond.

19. Financial Code section 17602.5 provides:

If any licensed escrow agent fails to make any reports required by law or by the commissioner within ten (10) days from the day designated

for the making of the reports, or within any extension of time granted by the commissioner, or fails to include therein any matter required by law or by the commissioner, such failure shall constitute grounds for the suspension or revocation of the license held by such escrow agent.

20. Financial Code section 17608 provides:

The commissioner may, after notice and a reasonable opportunity to be heard, suspend or revoke any license if he finds that:

(a) The licensee has failed to maintain in effect a bond required under the provisions of this division.

(b) The licensee has violated any provision of this division or any rule made by the commissioner under and within the authority of this division.

(c) Any fact or condition exists which, if it had existed at the time of the original application for such license, reasonably would have warranted the commissioner in refusing originally to issue such license.

V.

PRAYER FOR ORDER REVOKING EQUINE ESCROW, INC.'S ESCROW AGENT'S LICENSE

The Commissioner finds that, by reason of the foregoing, Equine Escrow, Inc. has violated Financial Code sections 17404, 17600, and 17348, which constitute grounds for the revocation of its escrow agent's license under sections 17602.5 and 17608 of the Escrow Law.

WHEREFORE, IT IS PRAYED under Financial Code sections 17602.5 and 17608 that the escrow agent's license of Equine Escrow, Inc. be revoked.

Dated: March 20, 2018

JAN LYNN OWEN
Commissioner of Business Oversight

By: _____
William Horsey
Senior Counsel
Enforcement Division